Petition

81-1726

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No.

IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1981

JOHN SIGER,

Petitioner

v.

COMMONWEALTH OF PENNSYLVANIA,

Respondent

PETITION

For a Writ of Certiorari to the Supreme Court of the Commonwealth of Pennsylvania.

Robert E. Madden
HIGGINS & MADDEN
Suite 1112
Western Savings Bank Building
Broad & Chestnut Streets
Philadelphia, PA 19107
(215) 735-4490
Attorney for Petitioner

THE LEGAL INTELLIGENCER, 10th & SPRING GARDEN STREETS, PHILA. PA 19123 (215) 236-2000

QUESTION PRESENTED

Does the seizure of items from petitioner's home pursuant to a search and seizure warrant issued without probable cause and the introduction by the Commonwealth into evidence at trial of those illegally seized items violate petitioner's Fourth Amendment right to be free from unreasonable search and seizure?

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No.

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October Term, 1981

JOHN SIGER,

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v.

COMMONWEALTH OF PENNSYLVANIA,

Respondent

PETITION

For a Writ of Certiorari to the Supreme Court of the Commonwealth of Pennsylvania.

TO THE HONORABLE, THE CHIEF JUSTICE OF THE UNITED STATES AND THE ASSOCIATE JUSTICES OF THE SUPREME COURT OF THE UNITED STATES:

John Siger hereby petitions that a writ of certiorari issue to the Supreme Court of Pennsylvania to review its judgment and order at No. 80-3-822.

OPINIONS BELOW

The Supreme Court of Pennsylvania on December 17, 1981 affirmed, without opinion, petitioner's conviction in the court below. That order is reproduced at A-1. The relevant portion of the opinion of the trial judge of the Court of Common Pleas of Bucks County, Pennsylvania, is reproduced at A-3. It is unreported and was issued on February 25, 1981.

JURISDICTION

John Siger was convicted of murder in the third degree upon trial by jury in criminal action No. 107 of 1978 in the Court of Common Pleas of Bucks County, Pennsylvania. On October 20, 1980, petitioner was sentenced to imprisonment for not less than ten (10) nor more than twenty (20) years and was ordered to pay the costs of prosecution. While on appeal to the Supreme Court of Pennsylvania, petitioner was admitted to bail which continues to date.

By judgment and order on December 17, 1981, the Pennsylvania Supreme Court affirmed petitioner's judgment of sentence without opinion. (A-1) Mr. Justice Brennan, by order dated February 11, 1982, extended the time within which to file this petition to and including March 17, 1982. (A-6)

This Court's certiorari jurisdiction is established by 28 U.S.C. §1257(3).

CONSTITUTIONAL PROVISIONS

The issue presented calls upon this Court to construe the Fourth Amendment to the Constitution of the United States which provides:

> *"Unreasonable searches and seizures.*
>
> The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized." USCS Constitution, Amendment Four.

That guarantee is made applicable to the states by virtue of the Fourteenth Amendment, Section 1:

> *"Citizens of the United States.*
>
> All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws." USCS Constitution, Amendment 14, Section 1.

STATEMENT OF THE CASE

Richard Hughes was shot while attending a crowded party in West Bristol, Pennsylvania, in the early morning hours on December 17, 1977; Hughes' injury was fatal. A woman who attended the party identified a photograph of petitioner, John Siger, as the person who had a revolver in his hand just prior to a shot being fired and who ran from the house thereafter. Other persons told police that Siger had attended the party and had left after the shot was fired. No one told the police that he had seen John Siger shoot Richard Hughes.

Eleven days later, police obtained a warrant (A-7) authorizing the search of Siger's residence and the seizure of any handgun, ammunition or other evidence of Siger's ownership of a handgun. Pursuant to the warrant, police searched petitioner's home and seized, *inter alia*, a box containing six shells (ammunition).(A-10)

Thereafter, John Siger was arrested and charged with the murder of Richard Hughes. A motion to suppress the evidence (six shells) seized pursuant to the warrant was filed by Siger on the grounds that no probable cause existed sufficient to justify the issuance of the warrant and that petitioner's rights under the Fourth Amendment to the United States Constitution, as guaranteed by the Fourteenth Amendment, were violated thereby. (A-11) The motion to suppress was denied orally from the bench. (A-13)[1] Following his conviction, petitioner again raised as error by way of post-trial motion the lack of probable cause for issuance of the warrant and the consequent constitutional violations. Again the trial court erred in ruling against his claim. (A-3)

---

1. The trial which ensued resulted in a mistrial. An appeal to the Pennsylvania Supreme Court was taken by Siger from the denial of his motion to preclude retrial on double jeopardy grounds. No stay of proceedings was obtained, and retrial commenced which resulted in his conviction. An appeal from the denial of post-trial motions was consolidated with the prior double jeopardy appeal.

An appeal from judgment of sentence was taken to the Pennsylvania Supreme Court and this issue, thus preserved, was presented to that court for appellate review. (A-14) On December 17, 1981, the Pennsylvania Supreme Court affirmed, without opinion, the judgment of sentence. (A-1)

The erroneous admission into evidence of the illegally seized shells constitutes reversible error because of the critical evidentiary value of the items. Not one witness at trial testified that he had seen Siger shoot Hughes. Some prosecution witnesses testified that Siger had a gun in his hand immediately prior to the shooting. One woman stated that just after a shot was fired she saw Siger put his hand into his jacket. There were approximately ten persons near the decedent at the time he was shot during a scuffle. Several witnesses testified that Siger was among the numerous persons fleeing the house immediately after the shooting; of the thirty-five persons attending the party, only twelve remained when the police arrived. One woman admitted to the jurors that she could not say that there was not at least one other person with a gun in his hand at the time of the shooting.

Ballistics experts testified that the six shells seized from petitioner's residence were of the same design and manufacture as the bullet removed from the body of the deceased and that the lead content of the fatal bullet when compared to four of the six shells seized from petitioner's residence revealed that all five came from the same homogeneous source. The critical nature of testimony concerning the items seized is obvious when viewed in the context of the purely circumstantial evidence upon which petitioner was convicted.

ARGUMENT

THE INTRODUCTION AT TRIAL OF EVIDENCE SEIZED IN VIOLATION OF PETITIONER'S CONSTITUTIONAL RIGHTS REQUIRES REVERSAL OF THE JUDGMENT OF SENTENCE AND THE GRANTING OF A NEW TRIAL

No probable cause existed to justify the issuance of a search warrant authorizing the search of petitioner's home and the seizure of any handgun, ammunition or evidence of possession or ownership of a firearm. The affidavit in support of probable cause (A-7) recites in pertinent part only that:

> (1) John Siger was seen with a revolver at the time of the shooting on December 17, 1977 in West Bristol, Pennsylvania;
>
> (2) As of December 19, 1977, John Siger resided at 1102 Dolores Lane, Croydon, Pennsylvania and was not at home on that date;
>
> (3) An automobile similar to one seen fleeing the area of the shooting was registered to Siger at the above address.

There is no reason whatsoever to believe from the foregoing recitation that on December 28, 1977 (eleven days after the shooting), the date of issuance of the warrant, Siger's residence in a different township would contain a firearm, ammunition or other indicia of ownership of a firearm which would constitute evidence relevant to the shooting eleven days earlier.

Probable cause to issue a search warrant exists when the facts and circumstances shown in the affidavit justify a person of reasonable caution in the belief that the items to be seized are in the stated place. *Brinegar v. United States*, 338 U.S. 160, 175-76 (1949). While due deference is to be afforded the decision of the magistrate, the affidavit must be interpreted in a common

sense, realistic fashion. *United States v. Bowers*, 534 F.2d 186, 188 (9th Cir. 1976). However, the existence of probable cause may not be founded upon conjecture or speculation.

In *United States v. Flanagan*, 423 F.2d 745 (5th Cir. 1970), a warrant authorizing the search of Flanagan's home was held to have been issued without probable cause. The affidavit alleged only that Flanagan had burglarized a home in Houston, Texas ten days earlier and jewelry had been stolen and not yet recovered; Flanagan was arrested in Dallas, Texas ten days later and items stolen from the Houston home were in his possession; Flanagan was known to police as a felon; and the District Attorney personally believed that there was a strong possibility that the remainder of the stolen property would be found in Flanagan's home in Ft. Worth, Texas.

Similarly, in *United States v. Gramlich*, 551 F.2d 1359 (5th Cir.) cert. denied 434 U.S. 866 (1977), a warrant was found not to be supported by probable cause where the affidavit disclosed only that the defendant and his residence had been under continuous surveillance for three weeks; the defendant had been arrested fifty miles from his home unloading marijuana from a Colombian freighter; and the defendant admitted importation of the contraband. The Fifth Circuit Court of Appeals reasoned that the fact alone that the owner of a residence had been caught in the act of smuggling contraband fifty miles from his home is insufficient to justify the inference that incriminating evidence can be found at that residence. *Id.* at 1362. *See also United States v. Bailey*, 458 F.2d 408 (9th Cir. 1972); *United States v. Whitlow*, 339 F.2d 975 (7th Cir. 1964); *Gillespie v. United States*, 368 F.2d 1 (8th Cir. 1966).

> "Simply from the existence of probable cause to believe a suspect guilty, [it does not follow in all cases] that there is also probable cause to search his residence. If that were so, there would be no reason to

> distinguish search warrants from arrest warrants, and cases like *Chimel v. California*, 395 U.S. 752 (1969), . . . would make litte sense." *United States v. Lucarz*, 430 F.2d 1051, 1055 (9th Cir. 1970).

The affidavit in this case reveals no fact which supports the bald assumption or "anemic suspicion" that some evidence of Siger's ownership of a gun[2] might be found in his home. Thus, the box of six shells seized pursuant to the warrant issued without probable cause should not have been introduced in evidence at petitioner's trial. By virtue of the critical importance placed by the prosecution upon this illegally seized evidence, the error in its introduction cannot be held to be harmless beyond a reasonable doubt. *Chapman v. California*, 386 U.S. 18 (1967). The conviction must be reversed and a new trial granted.

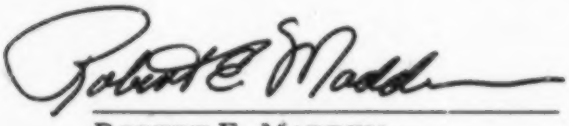
---

2. One of the items for which seizure was authorized by the warrant was a "gun cleaning kit." It is a flimsy thread indeed which links possession of gun cleaning apparatus to ownership of the firearm used in a shooting and thus to the identity of the shooter. That flimsy thread is from the same skein used to weave the whole cloth conclusion that probable cause existed to believe that evidence relating to the shooting of Hughes would be found in Siger's home.

CONCLUSION

For the foregoing reasons, a writ of certiorari should issue to review the judgment and order of the Supreme Court of Pennsylvania.

Respectfully submitted,



ROBERT E. MADDEN

HIGGENS & MADDEN
Suite 1112
Western Savings Bank Building
Philadelphia, PA 19107

Attorney for Petitioner

March 17, 1982

Appendix

APPENDIX A
[J358]

IN THE
SUPREME COURT OF PENNSYLVANIA
EASTERN DISTRICT

COMMONWEALTH OF PENNSYLVANIA	:	No. 369 January Term, 1978
	:	Appeal from Order of Court of Common Pleas of Bucks County entered August 29, 1978, denying defendant's motion to dismiss the indictment for reasons of double jeopardy and ordering defendant to stand trial a second time on Criminal Information No. 107/1978
v.	:	
JOHN SIGER *Appellant*	:	Argued: October 20, 1981
	:	No. 80-3-822
	:	Appeal from Judgment of Sentence of Court of Common Pleas of Bucks County entered October 20, 1980, at Criminal Information No. 107/1978
	:	Argued: October 20, 1981

ORDER

Filed December 17, 1981

PER CURIAM:

Order affirmed at No. 369 January Term, 1978. Judgment of sentence affirmed at No. 80-3-822.

APPENDIX A-1

SUPREME COURT OF PENNSYLVANIA
EASTERN DISTRICT

COMMONWEALTH OF PENNSYLVANIA	:	No. 369 January Term, 1978
v.	:	
JOHN SIGER, *Appellant*	:	No. 80-3-822

JUDGMENT

ON CONSIDERATION WHEREOF, it is now here ordered and adjudged by this Court that the Order of the COURT OF COMMON PLEAS, CRIMINAL DIVISION, BUCKS COUNTY, be, and the same is hereby AFFIRMED at No. 369 January Term 1978. Judgment of sentence AFFIRMED at No. 80-3-822.

BY THE COURT:

_____

Carl Rice, Esquire
Prothonotary

Dated: December 17, 1981

APPENDIX B

COURT OF COMMON PLEAS OF
BUCKS COUNTY — CRIMINAL

COMMONWEALTH OF PENNSYLVANIA	:	No. 107 of 1978
vs.	:	
JOHN SIGEK	:	

OPINION

* * *

THE ISSUE OF PROBABLE CAUSE TO SEARCH DEFENDANT'S HOME

Among various items of evidence admitted at the trial of the defendant, were certain live bullets which Commonwealth experts identified as of identical manufacture, calibre, grain, bullet point and the lead of which originated from the same homogeneous source or sources of lead and having the same elemental composition as the fatal lead bullet taken from victim's body. These items were seized at defendant's home the day after the shooting.

The defendant contends that the information contained in the affidavit of probable cause did not support a conclusion that the items to be searched for would be found in the premises to be searched.

The December 28th search warrant authorized seizure of the following items:

> "handguns and ammunition, documentation associated with the purchase or ownership of handguns or ammunition, other items such as holsters, gun cleaning kits associated with the use and ownership

of handguns, any documentation or proof of ownership of one Buick automobile, Pa. Reg. #05113Y, tan in color, eyeglasses, brown waist length coat, flowered shirt."

We think it sufficient to summarize the affidavit. It recited first that one Richard Hughes had been shot to death by a revolver in the presence of various persons; that defendant was by witnesses observed to have been the person who fired the revolver; that defendant was by several witnesses observed to flee the scene in a Buick auto; that defendant lived at 1102 Dolores Lane in Croydon and that he resided in an upstairs apartment within his mother's residence.

The Commonwealth concedes that the affidavit of probable cause contained no statement from a person who had observed any of the items to be seized within the premises to be searched. The contention is however that the issuing authority exercising the common sense approach authorized by law in the determination of whether probable cause exists, properly concluded that some or all of the items to be searched for might logically be expected to be found in the premises to be searched.

We agree. As distinguished from the items in the cases cited by defense, all of the items to be searched for in the instant case could reasonably be presumed to exist and be under the control of the defendant either on his person or at his home.

The cases supporting the proposition that illegal activity on the street (drugs) may not logically support the conclusion that defendant's home contains the same illegal contraband simply have no application to the case at bar. Here, logic and experience, too, as well as common sense, would support the issuing authority's conclusion that more probably than not, the defendant (if he had not hidden or destroyed them) would possess and keep in his home the murder weapon, its ammunition, his automobile, his clothing, etc.

Great deference should be given to the common sense determinations of the issuing magistrate where he has determined that probable cause exists. *United States v. Ventresca*, 380 U.S. 102, 85 S.Ct. 741, 13 L.Ed 2d 684 (1965); *Commonwealth v. Frye*, 242 Pa. Superior Ct. 144, 363 A.2d 1201 (1976); *Commonwealth v. Williams*, 236 Pa. Superior Ct. 184, 345 A.2d 267 (1975); *Commonwealth v. Early*, 236 Pa. Superior Ct. 60, 345 A.2d 197 (1975); *Commonwealth v. DeLuca*, 230 Pa. Superior Ct. 390, 326 A.2d 463 (1974).

The appropriateness of such a common sense inference is underscored by the decision of the Superior Court [in] *Commonwealth v. Jackson*, 227 Pa. Superior Ct. 1, 323 A.2d 799 (1974). See, also: *Commonwealth v. Davis*, 466 Pa. 102, 351 A.2d 642 (1976); *Commonwealth v. Bruno*, 466 Pa. 245, 352 A.2d 40 (1976). On this authority we properly, in our view, refused to suppress that evidence on defendant's motion.

* * *

BY THE COURT,
Oscar S. Bortner, J.

Date: February 25, 1981

APPENDIX C

SUPREME COURT OF THE UNITED STATES

No. A-708

JOHN SIGER,

Petitioner

v.

PENNSYLVANIA

ORDER EXTENDING TIME TO FILE PETITION FOR WRIT OF CERTIORARI

UPON CONSIDERATION of the application of counsel for petitioner,

It Is ORDERED that the time for filing a petition for writ of certiorari in the above-entitled cause be, and the same is hereby, extended to and including March 17, 1982.

/s/ William J. Brennan, Jr.

Associate Justice of the Supreme Court of the United States

Dated this 11th day of February, 1982

APPENDIX D

COMMONWEALTH OF	:	Application for
PENNSYLVANIA	SS	Search Warrant
COUNTY OF BUCKS	:	and Affidavit

Excerpts from Application and Affidavit

* * *

"IDENTIFY ITEMS TO BE SEARCHED FOR AND SEIZED (be as specific as possible): Handguns and ammunition, documentation associated with the purchase or ownership of handguns or ammunition, other items such as holsters, gun cleaning kits associated with the use and ownership of handgun; any documentation or proof of ownership of one Buick automobile, PA Reg. #05113Y, tan in color, eye glasses, brown, waist length coat, flowered shirt."

* * *

"PROBABLE CAUSE BELIEF IS BASED ON THE FOLLOWING FACTS AND CIRCUMSTANCES. (See special instructions below): Your affiant was informed by Officer Minnichbach of the Bristol Township Police Department that he arrived at #521 Western Ave., West Bristol, Pa. at 0219 hours, 12/17/77. Officer Minnichbach entered the first floor apartment at that address and found a w/m on the floor with an evident gunshot wound of the mid-section. Said male was identified as one Richard HUGHES.

Your affiant was informed by Officer Hairhoger of the Bristol Township Police Department that Richard HUGHES was transported to LOWER BUCKS HOSPITAL and pronounced dead at 0250 hrs. by one Dr. NAMBI.

Your affiant has been advised by Det. Richard Delaney of this Department that Delaney was present at an autopsy performed upon the body of Richard HUGHES by Dr. Halbert FILLINGER and that Dr.

FILLINGER informed Delaney that the decedent's death was caused by a single gunshot wound of the mid-section.

Your affiant was informed by one Dolores HAUSS, who is 23 yrs. of age and a resident of Bristol Township that she was attending a party at #521 Western Ave. during the early morning hours of 12/17/77. She was standing in the living room of the first floor apartment at that address, near her brother. Her brother became involved in a fight which resulted in her brother being knocked down, in turn knocking her down. At this time she looked up and observed a person with a revolver in his hand. After seeing the gun she started to crawl away, when she heard a shot. She looked back and the person she had seen with the gun ran across her out the front door of the apartment. Dolores HAUSS was shown photo displays including photographs of John SIGER. From one photo display containing an old picture of John SIGER she designated that photograph as looking like the person who had the gun. In another photo display containing a recent picture of John SIGER she selected SIGER'S picture as the person who held the gun and ran from the apartment immediately after the shot was fired. Dolores HAUSS advised your affiant that after the shot she observed a person known to her as Richard HUGHES lying on the floor bleeding from an evident wound of the mid-section.

The following persons have advised your affiant that a man known to them as John SIGER was at the party at #521 Western Ave. immediately before the shooting: Joseph TILLO, who informed your affiant that he had seen SIGER in the apartment before the shot was fired and had seen SIGER'S car outside the apartment, but after Richard HUGHES was shot went out and saw that SIGER'S car was no longer there. Cindy STERNER informed your affiant that she observed John SIGER, who is known to her, in the apartment immediately prior to the shot being fired and that he fled the apartment immediately after the shot had been fired.

Your affiant was advised by John BEDEKOVIC, w/m, that BEDEKOVIC was at the party at #421 (sic) Western Ave. at the time the shot was fired. He informed your affiant that SIGER was known to him and was present in the apartment that night. BEDEKOVIC told your affiant that SIGER was wearing the following clothing: a reddish-tan, waist length jacket, and tinted eye glasses.

Your affiant was informed by Det. Robert Gergal, County Detectives, that Gergal had spoken with one Carol BRANDT and that she stated that John SIGER was at the party in question and was wearing a long sleeved, print shirt.

Your affiant has determined from the Pennsylvania Department of Motor Vehicles that a motor vehicle of the following description is registered to John SIGER of #1102 Dolores Lane, Croydon, Pa.: 1973 Buick, Pa. Registration #05113Y.

Your affiant was informed by one Edward BATES that he was at the party at #521 Western Ave. on 12/17/77 and that after Richard HUGHES was shot he ran outside and observed a Buick, Electra 225, tan or gold in color, pulling rapidly away from the scene.

Your affiant was informed by Det. Richard Delaney of this Department that Delaney inquired at #1102 Dolores Lane in Croydon regarding the whereabouts of John SIGER. Delaney spoke with a woman identified as John SIGER'S mother who lived at the first floor of that address and informed Delaney that her son, John SIGER, resided in the upstairs apartment, but that he was not at home. Delaney made this check at the residence on or about 12/19/77.

Therefore your affiant believes that John SIGER did shoot and kill Richard HUGHES and that the evidence to be searched for will be found at his apartment."

* * *

APPENDIX D-1

Excerpts from
Receipt/Inventory of Seized Property

"The following property was taken/seized:"

* * *

"One traffic citation to Leah Meyers
One photo Leah Meyers
One owners card John Siger
One owners card Leah Meyers
One brown box with six shells
Above taken from 2nd floor bedroom"

* * *

APPENDIX E

COMMONWEALTH OF PENNSYLVANIA *-v-* JOHN E. SIGER	Bucks County Court of Common Pleas Criminal Division Term. No. 107/78

OMNIBUS PRE-TRIAL MOTION FOR RELIEF

To The Honorable, The Judges Of The Said Court:

The application of JOHN E. SIGER, by his attorney, ROBERT F. SIMONE, Esquire, respectfully represents that:

1. On or about January 5, 1978, Applicant JOHN E. SIGER surrendered himself to Bristol Township authorities following the issuance of a warrant for his arrest in connection with the shooting death of Richard Hughes, which occurred on December 17, 1977.

2. On a date presently unknown to the Applicant, the police allege that they found cartridges in the Applicant's apartment. Applicant alleges that if such a search took place it was done without probable cause and/or in the absence of a judicially authorized search warrant and/or without the consent of the Applicant and/or without the consent of anyone authorized by the Applicant to grant permission. Applicant further alleges that if said search was conducted incident to the execution of a duly authorized search warrant then said search warrant was issued without probable cause and was, accordingly, void.

The evidence seized and to be used in the prosecution of Applicant was obtained in violation of Defendant's Constitutional rights under the Fourth Amendment to the Constitution of the United States, as applicable to the Commonwealth of Pennsylvania under

the Fourteenth Amendment to the Constitution of the United States.

3. Through Discovery, Applicant is advised that the police allege that he was identified by various persons who were present at the time of the shooting of the deceased. Applicant alleges that any identification offered by the Commonwealth establishing his presence at the time of the shooting would be the result of police impropriety in obtaining said identification or employment of suggestive circumstances at the time said identifications were tendered.

4. It is believed that Applicant was allegedly identified by Commonwealth witnesses pursuant to an illegal photographic identification in that the photos and manner of conduct of said photographic line-up was unduly suggestive.

5. Said identifications were also unlawful because the identification procedures were employed with witnesses who did not have a proper opportunity to observe the alleged perpetrators during the alleged crime and because of the absence of counsel for the Applicant at the time the identifications were made.

WHEREFORE, the Applicant respectfully represents that:

a) All articles and items of evidence of every kind and description which were unlawfully seized shall not be admitted into evidence and that testimony or comment shall not be received respecting same and they shall be suppressed;

b) All identification evidence shall not be received or admitted into evidence and that testimony or comment shall not be received respecting the same and they shall be suppressed.

Robert F. Simone
Attorney for Defendant

APPENDIX F

IN THE COURT OF
COMMON PLEAS OF BUCKS COUNTY
CRIMINAL DIVISION

COMMONWEALTH OF PENNSYLVANIA	:	No. 107-78
v.	:	
JOHN SIGER,	:	
Defendant	:	

Excerpt From Transcript of April 19, 1978 Hearing Before Judge Oscar S. Bortner on Motion to Suppress Evidence

* * *

THE COURT: I think you are asking me to address myself to the question of whether the affidavit provided probable cause to believe that there would be these things in the man's apartment?

MR. SIMONE: Yes. Any basis to find that.

THE COURT: Yes. I find that the affidavit supports a conclusion of probable cause to believe that the items that were sought to be searched for would be in the apartment.

* * *

APPENDIX G

IN THE
SUPREME COURT OF PENNSYLVANIA
EASTERN DISTRICT

COMMONWEALTH OF PENNSYLVANIA	:	No. 80-3-822
v.	:	
JOHN SIGER, *Appellant*	:	

Appeal From the Judgment of Sentence, Entered October 20, 1980, By The Honorable Oscar S. Bortner, Bucks County Common Pleas Court, At Criminal Information No. 107/1978

Excerpt From Brief For Appellant—Statement of Questions Presented

* * *

III. Whether The Lower Court Erred In Denying Suppression Of A Hopelessly Tainted Pre-Trial Identification Of The Appellant, For Which There Could Be No Independent Basis For In-Court Identification, And In Denying Suppression Of Certain Cartridges Which Were Seized Pursuant To A Search Warrant For Which There Was No Probable Cause?

* * *